

Section 5. Enforcement

Existing Enforcement Assets

As indicated in the MLPA [FGC Section 2851(a)], a lack of enforcement resources is one of the reasons California's existing MPAs create the illusion of protection while falling short of their potential to protect resources. This lack of resources is not unique to MPA enforcement and is true across all fisheries enforcement in California. To remedy this, the MLPA requires that the Marine Life Protection Program provide for adequate enforcement [FGC Section 2853(b)(5)] and include appropriate enforcement measures for all MPAs in the system [FGC Section 2853(c)(2)]. The MLPA includes in this the use, to the extent practicable, of advanced technology and surveillance systems. Because of the added emphasis on MPAs established by the MLPA and the clear need for increased enforcement resources, additional assets will be required.

The Department of Fish and Game's enforcement staff is charged with enforcing marine resource management laws and regulations over an area encompassing approximately 1,100 miles of coastline and out to sea. Department staff also provide enforcement of federal laws and regulations within State waters and in federal waters. Enforcement duties include all commercial and sport fishing statutes and regulations, all Fish and Game Code and Title 14, California Code of Regulations restrictions, marine water pollution incidents, homeland security, and general public safety. General fishing regulations and other restrictions apply within MPAs as well as specific MPA restrictions.

The Department shares jurisdiction for federal regulations including the Magnuson Stevens Fishery Conservation and Management Act, the Endangered Species Act, and the Lacey Act. Department enforcement patrols regularly extend into federal waters between three and 12 nautical miles from shore as well as into the Exclusive Economic Zone beyond 12 nautical miles. A significant portion of both commercial and recreational fishing effort, and subsequently enforcement effort, occurs in federal waters and the EEZ. The existing patrol effort beyond state waters and outside MPAs must also be considered in the plan. How effectively state and federal regulations are enforced within and around the MPAs will affect the success of MPAs in conserving and protecting marine resources.

The Department of Fish and Game maintains a fleet of seven large patrol boats in the 54- to 65-foot class stationed at major ports throughout the state. These patrol boats are staffed by a cadre of 22 officers, and five support personnel. The Department also has eight patrol boats in the 24- to 30-foot range, and another 15 patrol skiffs stationed at ports and harbors throughout the state. Overall the Department has approximately 230 wardens in the field, responsible for a combination of both inland and marine patrol. A portion of these wardens have a "marine emphasis" focusing primarily on ocean enforcement but also enforcing inland regulations. The Department has a fleet of single- and twin-engine fixed wing aircraft that work in conjunction with both marine and land based wardens to help identify and investigate violations. Though seemingly impressive, when compared to the more than 5,000 square miles of California State waters and the federal waters beyond, as well as California's vast inland area, these numbers are quite small.

In the central California coast, for example, there are presently 30 to 40 wardens in the field. Of these, only about 15 have a marine emphasis and are responsible for enforcing regulations over more than 1,100 square miles of state waters within the study region (See table 3).

Table 3. Central coast enforcement personnel with marine emphasis (2005).

Pigeon Point to Big Sur		Big Sur to Point Conception		Total
Land Based	Patrol Boat	Land Based	Patrol Boat	
1 Lt. / 2 Wardens (1 vacant position)	1 Lt. / 2 Wardens 1 patrol boat	3 Wardens	2 Lt. / 4 Wardens 2 patrol boats	4 Lt. / 11 Wardens

The Department of Fish and Game's Special Operations Unit (SOU) consists of ten enforcement officers who are tasked with conducting statewide covert investigations primarily dealing with the commercialization of fish and /or wildlife. SOU investigations allow a team of well trained Department wardens to take the time and effort, usually not available to field wardens, to thoroughly investigate these large poaching operations that are severely impacting California's fish and wildlife resources. The SOU reports directly to the Marine Assistant Chief out of Sacramento Headquarters. The unit has no uniform patrol responsibility anywhere in the state. The unit is directed to specific investigations using information gathered from a variety of sources throughout the state.

The investigations conducted by SOU are varied, and include commercialization of recreationally caught or illegally taken bear, deer, turkey, abalone, lobster, sturgeon, salmon and steelhead, and a variety of other marine and inland fish as well as many other wildlife species. Covert investigations are very time consuming and expensive to conduct. The investigations can last anywhere from a few days to several years to complete. The SOU supervisor works closely with a local District Attorney during all investigations, which helps facilitate aggressive prosecution of most SOU cases. SOU may be used to assist with major MPA violations.

The Department's enforcement program also works closely with the enforcement programs of a number of other agencies including the California Department of Parks and Recreation, NOAA Fisheries, National Marine Sanctuary Program, National Park Service, and United States Coast Guard on matters of mutual enforcement interest (See Table 4). Though these programs often provide financial or logistical support, they do not provide significant staff resources statewide, especially for offshore patrols or patrols of areas not adjacent to their own facilities. As part of seeking new cooperative agreements, the Department will make efforts to acquire more direct assistance from appropriate agencies.

Table 4. Natural Resource Enforcement Assets in California

Agency	Assets and Activities
<i>U.S. Coast Guard</i>	The U.S. Coast Guard has a primary role in protecting natural resources under the Oil Pollution Act of 1990, the Rivers and Harbors Act of 1899, and the Marine Plastic Pollution and Control Act. The U.S. Coast Guard works directly with the Department's Office of Spill Prevention and Response (OSPR) on oil pollution incidents. They also provide limited support for State and Federal fisheries regulation enforcement.
<i>U.S. Fish and Wildlife Service</i>	U.S. Fish and Wildlife Service agents and officers have the statutory authority to enforce the Marine Mammal Protection Act, Endangered Species Act and Lacey Act.
<i>NOAA Fisheries</i>	The Department has a Joint Enforcement Agreement with NOAA Fisheries. NOAA Fisheries provides funding to the state to enforce federal regulations in state waters, federal offshore waters and in bays, estuaries, rivers and streams.
<i>National Marine Sanctuaries</i>	Currently, there are several sanctuary officers within the central coast area, patrolling the Monterey Bay National Marine Sanctuary. Boats and aircraft available for law enforcement patrols in all California Sanctuaries. Law enforcement agreements coordinate enforcement efforts, share physical resources, cross deputize state officers and provide federal funds for state operations.
<i>National Park Service</i>	The National Park Service has enforcement personnel stationed at various federal parks along the California coast and at some of the off-shore islands.
<i>California Department of Fish and Game</i>	Seven large patrol boats and over twenty smaller craft are dedicated to marine patrol efforts. One large patrol boat is primarily responsible for the Channel Islands marine protected areas law enforcement patrols. Two large patrol boats are within the central coast area.
<i>California Department of Parks and Recreation</i>	The Department of Parks and Recreation manages approximately one third of the California coastline and has law enforcement personnel stationed in park units throughout California, many with on water patrol capability. These officers have the authority to enforce Fish and Game statutes.
<i>Harbor Police, City Police, and Sheriffs</i>	Local harbor districts, sheriff and police Departments often employ peace officers to conduct on-water patrols within their jurisdictions.

The MLPA places an increased importance and focus on MPAs as a tool to enhance marine resources and requires that the existing array of MPAs be improved and managed to the extent possible as a network. In order to adequately enforce MPA regulations, the Department will prioritize areas of particular concern or at particular risk and emphasize patrol of these areas. Given the Department's other broad mandates to enforce both state and federal marine resource regulations current assets are not adequate to redirect to MPA specific patrols. The increased focus on MPAs suggested by the MLPA and the comprehensive network the act mandates will require not only a detailed enforcement plan, but additional enforcement assets.

MPA Enforcement Considerations

The level and type of enforcement activity in an individual MPA depends upon several factors. In particular, the goals and objectives of the individual MPA and its accompanying regulations dictate the enforcement needs. Specific MPA regulations and the need for or desired level of enforcement within an MPA also impact enforcement needs. In some cases, MPAs may be enforced without direct contact of individual vessels, such as in a no-take MPA where a vessel is obviously not engaged in fishing. In limited-take areas, the specific regulations may require

close examination of individual vessels to determine whether fishing activities comply with the regulations. However, while enforcement in no-take areas may consist of visual observation from a distance if the desired level of enforcement is high, they may also require careful examination of individual vessels.

Beyond the MPA classification, other elements of MPA design have implications for an effective enforcement plan. The following factors facilitate enforcement of MPAs:

- Straight line offshore boundaries which follow lines of latitude and longitude - more easily recognized by users and enforcement is simplified
- Larger shoreline lengths - provide a buffer against unintentional boundary infractions
- Proximity to cities - enhances the ability to enforce as more assets are readily available and deployment of staff and equipment is easier, however may pose problems for level of use (see below)
- Distant from heavily used areas - areas near urban development are often more heavily visited and require more enforcement effort to ensure compliance
- Fewer points of public access - Increased numbers of access points to an MPA (e.g., multiple shoreside access points versus only offshore access) require increased monitoring efforts and increased staffing
- Adjacent to the shoreline - enforceable using smaller vessels and shoreside patrol when compared to offshore MPAs with no shoreline connection
- Adjacent to onshore facilities - existing staff (e.g., state park rangers) can assist in enforcement and monitoring

The number of and distance between MPAs impacts the ability to enforce the MPA regulations. If MPAs are too far from one another, individual patrols are not able to enforce multiple areas. If MPAs are too numerous, individual patrols are not able to reach all areas. Each case would require additional enforcement personnel to cover the entire network of MPAs.

Finally, the enforcement plan must consider natural barriers to enforcement. MPAs established in areas with normally rough conditions may be difficult to patrol or access. As noted above, offshore MPAs require larger vessels and dedicated at-sea patrol. MPAs located farther offshore or more distant from ports have higher patrol costs in both time and expenses. MPAs adjacent to shore, however, may also have natural barriers to their enforceability. This would include distance from patrol bases as noted above, along with physical inaccessibility. Though MPAs in very remote and difficult-to-access areas will naturally have fewer visitors and a decreased chance of unintentional infractions, they are also uniquely suited for unobserved intentional infractions.

Enforcement Plan Objectives

The primary objective of an MPA enforcement plan is to ensure compliance with regulations designed to achieve the individual MPAs objectives. Compliance is enhanced through visible and consistent patrol and through adequate outreach to ensure public knowledge of regulations and areas. As noted above, additional enforcement personnel and assets will be required to achieve this primary objective. Increased use of cooperative agreements with other agencies may be a partial solution, but additional funding for enforcement is required for any of the solutions.

The objectives of the enforcement plan can be split into four primary categories:

1. Provide an effective and comprehensive operational ability
2. Maintain and enhance cooperative efforts with other agencies
3. Ensure public awareness of regulations and rationale
4. Provide outreach and education

The activities and funding required to implement these objectives are detailed in appendix L. In summary, the activities include:

Effective and comprehensive operational ability

- Identify areas of high priority, biological sensitivity, or enforcement need
- Determine MPA Network enforcement needs
- Hire additional enforcement officers
- Explore and acquire remote observation technology and techniques

Priorities are developed based on the potential for resource impact, level of use, and potential for infractions. High priority areas include habitats that are particularly vulnerable to damage, areas with high aggregations of critical species or species at low abundance, and areas where infractions are likely to occur or have occurred at high rates in the past.

Seek additional cooperative agreements

- Develop standard operating procedures
- Develop a standardized training program
- Seek and support ongoing and enhanced memoranda of understanding

Ensure public awareness of regulations and rationale and provide enhanced outreach and education

- Establish a Department MPA outreach program
- Develop outreach materials for enforcement staff to distribute
- Establish an education advisory board
- Hold public forums to educate specific groups
- Develop standardized signage protocols

The Department already conducts significant outreach and educational activities. In order to ensure public awareness of MPA regulations and rationale, the Department would create specific curricula and materials dedicated to MPAs. The Department would create standards for statewide signage and information to make outreach materials consistent. Additional funding would be required for any outreach and educational activities.